

Title	2009 Country Reports on Human Rights Practices - Republic of the Congo
Publisher	United States Department of State
Country	Republic of the Congo
Publication Date	11 March 2010
Cite as	United States Department of State, <i>2009 Country Reports on Human Rights Practices - Republic of the Congo</i> , 11 March 2010, available at: http://www.unhcr.org/refworld/docid/4b9e52c8c.html [accessed 3 May 2010]

2009 Country Reports on Human Rights Practices - Republic of the Congo

Bureau of Democracy, Human Rights, and Labor
March 11, 2010

The Republic of the Congo, with an estimated population of four million, is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration. Denis Sassou Nguesso was reelected president in the July 12 election with 78 percent of the vote. While the election was peaceful, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. The African Union declared the elections to have been free and fair. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record included instances of abuses including: killings of suspects by security forces; mob violence; beatings and other physical abuse of detainees; rapes; solicitation of bribes and theft; harassment and extortion of civilians by unidentified armed elements; poor prison conditions; official impunity; arbitrary arrest; lengthy pretrial detention; an ineffective and largely nonfunctioning judiciary; infringement of citizens' privacy rights; restrictions on freedom of speech, press, association, and movement; official corruption and lack of transparency; domestic violence, including rape, and societal discrimination against women; trafficking in persons; discrimination on the basis of ethnicity, particularly against Pygmies; and child labor.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

In January journalist and activist Bruno Jacquet Ossebi, known for outspoken coverage of government corruption, was in a house fire which some organizations believed was set for political reasons, but others reported it as a simple electrical fire. Ossebi's companion and child died in the fire, while he died several days later in the hospital. The death was officially declared an accident, and there was no investigation. Ossebi's last article before his death described corruption in the management of the country's oil wealth. He had also reported on a lawsuit involving three African leaders, including President Nguesso.

In December 2008 the Congolese Observatory of Human Rights reported the killing of Jean Bambelo, a domestic employee, by a government official. After an investigation, the official's military bodyguards were arrested, sentenced to 15 years in prison, and stripped of their military rank. No action was taken against the official.

In June 2008 Silvain Banobi died from wounds inflicted by the Nkombo Public Security Post. By year's end there had been no investigation into his death.

No investigation was conducted into the 2008 death of Guy Poaty, who died in custody after being beaten and reportedly tortured by police in Pointe Noire.

There were no further developments in the following 2007 cases: the death of Guy Yombo, a prisoner at the Ouenze jail; the death of a Brazzaville prisoner trying to escape from jail; and the killing by police of three armed suspects in Brazzaville who were resisting arrest.

Local inhabitants frequently took the law into their own hands to punish persons presumed or known to be police or military personnel who looted civilian residences, resulting in death or serious injury. Such incidents were most common in remote areas.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no further developments in the disappearance and presumed deaths of 353 persons in the 1999 "Beach" incident. The individuals were separated from their families by security forces in 1999 upon their return from the Democratic Republic of Congo (DRC). The families of the victims tried unsuccessfully to use French courts to bring claims of criminal wrongdoing against individuals and the Congolese government. In April 2008 French courts ruled against allowing the cases to proceed in the French judicial system. In 2005 a Brazzaville court acquitted 15 high-ranking military and police officials accused of involvement in the case. In 2006 the Supreme Court refused to consider an appeal by the families.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices and, unlike the previous year, there were no confirmed reports that government officials employed them.

On January 14, Mayor Gomez De Makanda shot and wounded Nuptia Managu, in Bacongo market, while firing at the tires of a local taxi blocking the road. The mayor was removed from office, but no trial had been scheduled by year's end.

Police assaulted international journalists (see section 2.a.).

Unlike the previous year, there were no confirmed reports that security force members raped female detainees.

During the year two gendarmes were dismissed from duty for the 2008 rape of a woman in detention in the Talangai District of Brazzaville. By year's end no charges had been brought against the officers.

No action was taken against police for the beating of civilians and destruction of property during the August 2008 raids on restaurants, snack bars, and kiosks, and no investigation was conducted during the year.

Prison and Detention Center Conditions

Prison and detention center conditions were harsh and life threatening. Prisons were

overcrowded. More than 500 prisoners were housed in the Brazzaville Maison d'Arret, known as the central prison, which was built in 1944 for fewer than 100 prisoners. In the central prison, the only prison in the capital, most cellmates slept on the floor on cardboard or thin mattresses in small cells, exposing them to disease. Food was poor and health care virtually nonexistent, provided primarily, if at all, by outside charities. Prisoners and detainees in the central prison usually received one meal per day.

There were six prisons in the country but only two were in operation: the one in Brazzaville and one in Pointe Noire. Other facilities stopped functioning in 2008 due to dire conditions, and many prisoners were allowed to leave. By year's end the prison population was an estimated 492, the majority of whom were awaiting trial; most were jailed for assault and robbery. The Brazzaville prison held 347 prisoners, including 37 women and 45 minors. The Pointe Noire prison held 165 prisoners, including three women and two minors.

There were separate facilities for women and men. Juveniles were held with adults, and pretrial detainees were held with convicted prisoners.

The government continued to grant access to prisons and detention centers to domestic and international human rights groups. During the year the International Committee of the Red Cross (ICRC), local human rights groups, and NGOs regularly visited prisons and detention centers.

The ICRC maintained an office in Brazzaville. During the year access to government officials and detainees remained good for international humanitarian officials. In contrast, local NGOs had poor access.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention. However, members of the security forces unreasonably and arbitrarily detained persons for minor offenses, mostly traffic-related, and required them to pay bribes on the spot as a condition for release.

A number of politically motivated arrests occurred in Brazzaville related to the July presidential elections (see section 1.e.).

Role of the Police and Security Apparatus

The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily in cities and the gendarmerie mainly in other areas. Military forces are responsible for external security, but also have domestic security responsibilities, such as protecting the president. The minister of defense oversees the military forces and gendarmerie, and the minister of security oversees the police.

A joint police unit under the Ministry of Security and Public Order is responsible for patrolling the frontiers. Another unit, the military police, is composed of military and police officers and is primarily responsible for investigating professional misconduct by members of any of the security forces. Overall, professionalism of the security forces continued to improve, in large part due to training by the international law enforcement community. The government generally maintained effective control over the security forces; however, some members of the security forces acted independently of government authority and committed abuses.

Corruption remained a significant problem in the security forces. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Traffic police extorted bribes from taxi drivers and others under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the

public to report security force abuses, impunity for members of the security forces remained widespread.

Arrest Procedures and Treatment While in Detention

The constitution and law require that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days and either charged or released within four months. However, the government habitually violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level and could not afford to post bail. Detainees generally were informed of the charges against them at the time of arrest, but formal charges often took at least one week to be filed. Police at times held persons for six months or longer due to administrative errors or delays in processing detainees. Most delays were attributed to lack of staff in the Ministry of Justice and court system. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense. If indigent detainees were detained outside a major city, they were often transferred to the closest town or city where an attorney was available.

Arbitrary arrest continued to be a problem. The most common cases were threats of arrest to extort bribes. These were perpetrated most often against vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped persons and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. Most often these incidents resulted in the bribe being paid; if not, the person was detained at a police station (or the airport) until either a bribe was paid or pressure was placed on authorities to release the individual.

The arrests of opposition members Malgala Sabin, Douniama-Etou Jean Ferenzi, and Ernest Ngalou following the July 12 elections were perceived to be politically motivated.

On July 15, security forces arrested former self-exiled opposition leader and Lissouba loyalist General Ferdinand Mbaou upon his arrival at the Brazzaville airport. Mbaou, who had been in exile in France since 1997, was charged with breaching national security. At year's end he remained in police custody.

Gilbert Nsonguissa, an advisor to the exiled former minister of finance Nguila Mounbounga Nkombo, was arrested in September 2008 while conducting an opposition party rally. Nsonguissa was released in December and returned to France.

Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of the prison population. On average detainees waited six months or longer before a trial.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence and corruption.

The judicial system consists of traditional and local courts, courts of appeal, a Court of Accounts, the High Court of Justice, the Constitutional Court, and the Supreme Court. In rural areas, traditional courts continued to handle many local disputes, particularly property and inheritance cases, and domestic conflicts that could not be resolved within the family. The Court of Accounts' function is to hear cases related to mismanagement of government funds. The Constitutional Court's responsibilities are to adjudicate the constitutionality of laws and judicial decisions, and review judicial decisions or crimes involving the president and other high-ranking authorities in the conduct of their official duties. Local courts dealt with criminal and civil complaints. The Supreme Court met

regularly and primarily heard cases related to the legality of land seizures by the government during the civil war. It also reviewed administrative and penal cases from lower courts.

Trial Procedures

The constitution provides for the right to a fair trial presided over by an independent judiciary; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials, and most cases never reached the court system. Some prisoners were subsequently freed and considered to be in pending trial status, but most remained in pretrial detention. In general, when trials occurred prior to 2006, defendants were tried in a public court of law presided over by a state-appointed magistrate.

Defendants are presumed innocent, have the right to appeal, to be present at their trial, and to consult with an attorney in a timely manner. An attorney is provided at public expense if an indigent defendant faces serious criminal charges. Defendants can confront or question accusers and witnesses, and present witnesses and evidence on their own behalf. The defense has access to prosecution evidence. Juries are used. In principle, the law extends the above rights to all citizens.

The military has a tribunal system – the Martial Court – to try criminal cases involving military members, gendarmerie, or police. Civilians are not tried under this system. This body was believed to be subject to influence and corruption. However, in a continuation of a 2007 investigation into corrupt military payroll practices, during the year the Martial Court suspended the salaries of more than 500 current and former military personnel. The court continued repayment of the lost funds by garnishing wages from these personnel.

Political Prisoners and Detainees

There were some political prisoners and detainees (see section 1.d.). Political prisoners may be detained for up to one month, and this period may be extended to three months by a judge. In practice these laws were not always observed, and the few known political prisoners were sometimes detained for up to six months or more. As in previous years, local and international NGOs, including the ICRC, reported monitoring the condition of several political prisoners.

There were no further developments in the case of three exiled DRC military officers, who have been in pretrial detention pending extradition since 2004.

Civil Judicial Procedures and Remedies

There is a civil court system; however, it was widely believed to be subject to the same corrupt practices as found in the criminal court system. Although persons can file a lawsuit in court on civil matters, including seeking damages or cessation of a human rights violation, no such cases were known to exist. There remained general mistrust of the judicial system as a means to address human rights issues.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions and, unlike in the previous year, the government generally respected these prohibitions in practice.

Unlike in the previous year, there were no reports that citizens believed the government monitored telephone and mail communications of selected individuals.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, but also criminalize certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The government at times limited freedom of speech and press. Freedom declined during the year, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernmental print media experienced few constraints as long as its reporting stayed only in print form and was not broadcast.

Individuals could criticize the government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they named high-level officials while criticizing government policies. The government generally did not proactively attempt to impede criticism by, for example, monitoring political meetings, but it sometimes punished critics after the fact.

There was one state-owned newspaper, *La Nouvelle Republique*, and several publications that were closely allied with the government. There were 40 private weekly newspapers in Brazzaville that criticized the government. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and Pointe Noire.

Most citizens obtained their news from radio or television, and in rural areas primarily from government-controlled radio. There were three privately owned radio stations, all progovernment, three government-owned radio stations, and one government-owned television station. There were four privately owned television stations; unlike in previous years, two of the four stations were increasingly critical of the government. Several satellite television services were available and permitted the few who could afford it to view a wide range of news programs.

Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this guidance there were adverse consequences, especially if they were critical of the president or other senior officials. A journalist reporting on official corruption died in a home fire suspected by some to have been politically motivated, although official investigation ruled out foul play (see section 1.a.).

During the July presidential elections, several international journalists reported harassment by military police. Thomas Fessy from BBC and Marlene Rabaud of France 24 both reported physical assault and seizure of equipment by police. Catherine Ninin of Radio France International reported being threatened and harassed in her hotel by security agents. Committee to Protect Journalists program coordinator Tom Rhodes called on the government to halt the intimidation, return seized equipment, and compensate media for damages. However, by year's end the government had taken no action.

On September 14, security forces arrested without charge British filmmaker Graham Hughes; the government claimed he was taking pictures of government leaders. Security officials seized his glasses, medicine, camera, and video equipment. Hughes, who described his conditions of detainment as "shocking," was denied consular access for four days; he was released on September 19.

There were no further developments in the case of television journalist Christian Perrin, who was fined in July 2008 for airing footage of a riot.

No action was taken against police responsible for beating reporter Giscard Mayoungou in September 2008.

A number of Brazzaville-based journalists represented international media. There were no confirmed reports of the government revoking journalists' accreditations if their

reporting reflected adversely on the government's image; however, the government had not repealed the policy that allowed revocation. This policy affected journalists employed by both international and government-controlled media. Local private journalists were not affected by the policy.

The press law provides for monetary penalties for defamation and incitement to violence.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 4 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, the government did not always respect this right in practice.

Groups that wished to hold public assemblies were required to seek authorization from the Ministry of Territorial Administration and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order.

The government prevented political parties from organizing public events. On July 15, security forces prevented the opposition political parties led by opposition leader Mathias Dzon from holding their press conference at the parliament. The incident resulted in a public disturbance in which police were required to intervene.

Opposition parties cited three other instances of state interference in their peaceful assembly during the year. The opposition party, Front des Partis de L'Opposition Congolaise, claimed it was forbidden to hold meetings on April 11 in Kinkala, on April 5 in Pointe Noire, and simultaneously on July 15 in the cities of Pointe Noire, Dolisie, Mossendjo, Nkayi, Ouessou, Owando, and Kinkala. During the July 15 assembly, a policeman fired a warning shot which injured two bystanders. There were no further developments by year's end.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected the right of most groups to associate. Groups or associations – political, social, or economic – were generally required to register with the Ministry of Territorial Administration. Registration could sometimes be subject to political influence.

During the year Marien Ngouabi and Ethics, a political opposition group that unsuccessfully sought to organize in 2008, instead applied for registration in France.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of discrimination against members of religious groups. There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2009 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice the government at times imposed limitations. Immigration officials routinely stopped travelers on various pretexts to extort funds.

Although the 2003 disarmament agreement effectively ended the organized rebellion in the Pool region, unidentified armed elements believed to be former Ninja rebels continued to harass and intimidate citizens. Since the Pool region is bisected by the only road and rail links between Brazzaville and the port of Pointe Noire, reduced but continuing rebel activity and banditry in the region limited the freedom of movement of persons and goods. Unlike in previous years, there were no reports of deaths attributed to banditry in the Pool region. The national police reported that former Ninjas continued to rob and harass vehicles and train passengers.

During the year several political opposition leaders were banned from travelling outside the country. Ange Eduard Pongui, vice president of the Panafrican Union for Social Democracy (UPADS); opposition leader Mathias Dzon; and Emmanuel Ngouelondele, president of the Party for Democratic Alternance, were turned away at Brazzaville's airport as they attempted to board international flights. The government claimed the ban was due to an ongoing investigation into the role of these individuals in the July 15 protest, which resulted in a shooting. The complete list of individuals banned from travel was not publicly announced. Effectively, the only way for members of the opposition to know whether they were banned from foreign travel was to attempt to board an international flight.

The law prohibits forced exile, and the government did not use it.

The government did not generally prevent the return of citizens, including political opponents of the president, although some were arrested upon their return to the country. Former president Pascal Lissouba, who was sentenced in absentia in 2001 to 30 years in prison for "economic crimes," remained in exile in France. On December 13, the national assembly passed a bill granting Lissouba amnesty. At year's end the bill was awaiting the president's approval.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1960 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for doing so. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The country, especially areas that border the DRC, has seen numerous instances of displaced persons in recent years. For example, since October the country has experienced an influx of displaced persons into Likouala. In less than two months, 90,000 persons entered this isolated region of the country.

Although at year's end the government had not decided whether the latest group of displaced persons to arrive in the country should be identified as refugees, it responded efficiently to meet their needs. Beginning in October the government provided fuel for World Food Program barges, deployed military forces to guarantee the security of displaced persons and relief workers, allocated land to be set aside for settlement camps and farms, and allowed the UN High Commissioner for Refugees (UNHCR) to begin a formal registration process.

In this case and throughout the year, the government cooperated with the UNHCR, other agencies of the UN system, and humanitarian organizations in assisting refugees and asylum seekers. The government cooperated with the UNHCR in the voluntary return of refugees, including former combatants from the DRC, to their home countries. In the wake of the refugee influx into Likouala in October, the government set up a crisis committee cochaired by the UNHCR and coordinated the national and international response to the situation with the UN country team.

Applications for refugee status were handled by the National Refugee Assistance Center (CNAR). Although the center experienced some financial difficulties in 2007, it was fully operational during the year. The CNAR received between 80 and 90 percent of its operating budget from the UNHCR. Since 2007 the CNAR and the UNHCR have worked to reduce a heavy backlog and have processed approximately 3,000 refugee applications in the last two years. According to the UNHCR, as of September, the country hosted an estimated 18,210 refugees and 4,455 asylum seekers. The refugees came from the DRC (9,224); Rwanda (7,868); Angola (813); and other countries (305).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the July presidential election.

Elections and Political Participation

Denis Sassou Nguesso was reelected president in the July 12 election with 78 percent of the vote. Officially, 66 percent of eligible voters participated in the election, although the opposition estimated the turnout to be much lower. While the election was peaceful, opposition candidates and NGOs criticized the election for irregularities, such as a discrepancy between the officially reported rates of voter participation and that observed by independent election observers. The African Union declared the elections to have been free and fair. Prior to the election, the EU representative questioned the method of updating the voter registry.

Following the election, the government restricted the travel of several opposition politicians including Mathias Dzon and Herve Malonga. These restrictions were lifted on October 30.

Major political parties included the ruling Congolese Labor Party; the Pan-African Union for Social Development; the Congolese Movement for Democracy and Integrated Development; the Union for Democracy and the Republic; the Rally for Democracy and Social Progress; and the Union for Progress. Opposition parties encountered government restrictions, particularly with regard to the right to organize. Political opposition parties were restricted from organizing before, during, and after the July presidential elections (see section 2.d.).

Following the July election, the newly appointed government included a number of high-ranking politicians from northern ethnic tribes as well as a number of representatives from other regions and ethnicities.

There were eight women in the 72-seat senate and seven women in the 137-seat national assembly. There were six women in the 38-member cabinet.

Despite a 2006 parliamentary reaffirmation of their right to vote, some Pygmies were excluded from the political process due to their isolation in remote areas, lack of registration, culture, and stigmatization by the majority Bantu population. During the year the parliament passed a new law to protect the rights of Pygmies (see section 6.).

Section 4 Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators, government corruption was a severe problem, although the Bank and the International Monetary Fund noted that the government undertook significant reform measures to combat corruption. There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. Some local and international organizations claimed that government officials, through bribes or other fraud, regularly diverted revenues from these industries into private overseas accounts before the revenues were declared officially. Pervasive lower-level corruption included demands for bribes by security personnel, customs officials, and immigration personnel.

Senior officials were subject to financial disclosure laws. It was unclear if the officials complied in practice.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the government released information, if it did so at all.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated, with some exceptions, without government restriction during their investigations and publishing of their findings on human rights cases. Government officials generally were more cooperative and responsive to international groups than to domestic human rights groups. Some domestic human rights groups tended not to report specific incidents for fear the government would impose obstacles to their work.

The government-sponsored HRC is charged with acting as a watchdog and addressing public concerns on human rights issues. Some observers claimed that the commission was completely ineffective and lacked independence. The president appointed most, if not all, of its members. On December 14, the commission met for the second time since 2008 to draft the 2010 agenda and to commission bylaws.

The ICRC maintained an office in Brazzaville. During the year access to government officials and to detainees remained good for international humanitarian officials. Local NGOs, in contrast, had poor access.

Representatives from the International Court of Justice visited Brazzaville in November, but did not issue any report.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law and constitution prohibit discrimination on the basis of race, gender, language, religion, social status, or disability; however, the government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women, regional ethnic discrimination, and discrimination against indigenous persons.

Women

Rape, including spousal rape, is illegal; however, the government did not effectively

enforce the law. The law prescribes five to 10 years in prison for violators. However, according to local women's groups, the penalties for rape could be as little as several months and rarely more than three years' imprisonment, despite the provisions of the law. Rape was common, but the extent of the problem was unknown because the crime was seldom reported. As of July a total of 182 cases of rape had been reported to local police. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law outlawing spousal battery, other than general statutes prohibiting assault. Domestic violence traditionally was handled within the extended family or village, and only more extreme incidents were reported to the police, primarily due to the social stigma for the victim. Local NGOs continued awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred, however, in some immigrant communities from West African countries where it was common. There were no known governmental or other efforts to investigate or combat FGM.

Prostitution is illegal, but was common, and the government did not effectively enforce this prohibition.

Sexual harassment is illegal. Generally the penalty is two to five years in prison. In particularly egregious cases, the penalty can equal the maximum for rape, five to 10 years in prison. However, the government did not effectively enforce the law. According to local NGOs, sexual harassment was very common but rarely reported. As in previous years, there were no available official statistics on its incidence.

There are no laws restricting reproductive rights, childbirth, or timing of pregnancies. There were no restrictions on the right to access contraceptives; however, they were not widely used by the population because of the expense. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. Men and women received equal access to diagnosis of and treatment for sexually transmitted infections, including HIV. The National Committee to Fight AIDS coordinates national policy to counter the spread of the HIV/AIDS virus.

Marriage and family laws overtly discriminate against women. Adultery is illegal for women but not for men. Polygyny (having multiple wives) is legal; polyandry (having multiple husbands) is not. The law provides that a wife shall inherit 30 percent of her husband's estate. In practice the wife often lost all inheritance upon the death of her spouse, particularly under traditional or common-law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were obliged to pay excessive bride prices to the woman's family. As a result, the right to divorce was restricted for some women because they lacked the means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the rights of women, but it did not effectively perform this function.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work. However, women were underrepresented in the formal sector. Women experienced economic discrimination in access to employment, credit, equal pay, and owning or managing businesses. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, small-scale commerce, and child-rearing responsibilities. Many local and international NGOs have developed microcredit programs to address this problem, and government ministries, including those of social affairs and agriculture, were also active in helping women set up small income-producing businesses.

Children

Citizenship is acquired by birth in the country as well as from one's parents.

The government does not provide automatic recording of births; it is the responsibility of the parents to record the birth of a child. Recording is not required, but it must be done to obtain a birth certificate, which is necessary for school enrollment and other services. Pygmies, in particular, were denied social services as a result of not being registered. Those living in remote villages had a difficult time registering, as it was done only in the major city of each department. The government continued a system to provide free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas of the country.

Education was compulsory, tuition-free, and universal until the age of 16, but families were required to pay for books, uniforms, and school fees. School enrollment was generally higher in urban areas. Although there was no specific data available, Pygmy children were at a disadvantage in school attendance since their parents generally failed to register births and obtain the necessary records. According to official statistics, an estimated 92 percent of children attended primary school. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times as likely as girls to continue to high school and four times as likely to go to a university. In addition, there were some reports that teenage girls were pressured to exchange sex for better grades, which contributed to both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was not commonly reported. Most reports in previous years involved the West African immigrant communities in the country.

There were cases of children, particularly those who lived on the streets, engaging in prostitution without third-party involvement. The prevalence of the problem remained unclear, although the UN Children's Fund (UNICEF) estimated that 25 percent of the approximately 1,800 trafficked children were sexually exploited.

The law refers to child protection in general and is used to prosecute cases of abuses against children. Child pornography is prohibited. There is no minimum age for consensual sex and no statutory rape law. The legal age for marriage is 16 for women and 18 for men.

With support from international organizations, the government provided counseling support to former child soldiers. The government partnered with the UN Development Program to train and reinsert over 5,000 at-risk youth who took part in development projects in communities affected by the conflict.

International organizations assisted with programs to feed and shelter street children, the majority of whom lived in Brazzaville and Pointe Noire and were believed to be from the DRC, according to UNICEF. Children who lived on the streets were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many begged or sold cheap or stolen goods to support themselves.

Trafficking in Persons

On August 27, the parliament passed a law prohibiting trafficking in persons, including children. Trafficking would be an illegal and prosecutable offense upon ratification by the president, which was pending at year's end.

There continued to be reports of trafficking of children by African immigrants from Benin, Cameroon, Guinea, Mali, Senegal, and Togo living in the country, as well as trafficking of children from the DRC. During the year there were no known cases of the government prosecuting any traffickers. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues.

A 2007 UNICEF report indicated the country was a destination for trafficked persons, with an estimated 1,800 children reportedly trafficked in Brazzaville and Pointe Noire. There were reports that underage relatives of immigrants from West Africa could be victims of trafficking. There was no evidence of trafficking in adults. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports that some were physically abused.

In the originating countries of West Africa, suspected traffickers were believed to be either distant relatives or fellow countrymen of the victims. They recruited parents to sell their children with false promises to provide the children care or education and training, or visas to Europe or South Africa.

A joint program by UNICEF, local NGOs (most notably Action Against Trafficking of West African Children), and government officials in Pointe Noire continued successfully repatriating 23 West African children who claimed to have been trafficked, particularly from Benin.

There was no evidence of involvement of government officials in trafficking.

There were no further developments in the March 2008 arrest in Canada of the wife of a former cabinet official for suspected human trafficking.

See also the State Department's annual [Trafficking in Persons Report](#).

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce the law. During the year the governments of the Republic of the Congo and the DRC instituted an agreement to allow persons with disabilities to travel cost-free between the two countries.

There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

National/Racial/Ethnic Minorities

The law prohibits discrimination based on ethnicity; however, the government did not effectively enforce this prohibition.

Regional ethnic discrimination existed among all ethnic groups and was evident in government and private sector hiring and buying patterns. The relationship between ethnic, regional, and political cleavages was inexact. Many of the supporters of the government included persons mostly from northern ethnic groups, such as the president's Mbochi group and related clans.

Indigenous People

According to local NGOs, Pygmies were severely marginalized in employment, health services, and education, in part due to their isolation in remote areas of the country and their different cultural norms. Pygmies were usually considered as socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Some NGOs asserted that many indigenous groups, who lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Indigenous people were estimated to constitute 10 per cent of the population or 300,000 persons.

The government also disbanded several business operations in northern Congo in which Bantu groups were misusing and abusing the labor of the Ba'aka (Pygmy) peoples. Pygmies were notably more prevalent in the hunting and natural healing professions.

Omer Gapa, a prominent former government official who was arrested in March 2008 in connection with the disappearance of an indigenous girl in 1989, was awaiting trial at year's end.

The National Network of Indigenous People of Congo continued its campaigns directed at the government, civil society, and international organizations to improve Pygmy living conditions.

Some NGOs claimed that Bantu ethnic groups exploited Pygmies, possibly including children, as cheap labor; however, as in previous years, there was little official information regarding the extent of the problem.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution prohibits discrimination based on political, sexual, or religious orientation. There was not a large openly gay or lesbian community due to the social stigma associated with homosexual conduct. Colonial legislation from 1810 prohibits homosexual conduct and prescribes punishment of up to two years' imprisonment; however, the law was rarely enforced. The most recent arrest under this law was in 1996, when several individuals were arrested in Pointe Noire and briefly detained for homosexual behavior. There were no known cases of violence or discrimination against lesbians, gays, bisexuals, or transgender persons during the year. While discrimination may exist due to the social stigma surrounding homosexual conduct, no such cases were reported to NGOs or covered by the media.

Other Societal Violence or Discrimination

Persons with HIV/AIDS were fairly well organized and sought fair treatment, especially regarding employment. NGOs worked widely on HIV/AIDS issues, including raising public awareness that those living with HIV/AIDS were still able to contribute to society. The law provides avenues for persons to file lawsuits if they were, for example, terminated from employment due to their HIV/AIDS status.

Section 7 Worker Rights

a. The Right of Association

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. Nearly all workers in the public sector and approximately 25 percent of workers in the formal private sector were union members. The law allows unions to conduct their activities without interference, and the government protected this right in practice.

Workers have the right to strike, provided all conciliation and nonbinding arbitration procedures have been exhausted and due notice has been given.

b. The Right to Organize and Bargain Collectively

The law also provides for the right to bargain collectively, and workers exercised this right freely, although collective bargaining was not widespread due to severe economic conditions.

There were no reports that antiunion discrimination occurred. Most trade unions were

reportedly weak and subject to government influence; as a result, workers' demonstrations were frequently prohibited, often by the unions themselves. There were no reports during the year of employers firing workers for union activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children. Unlike in previous years, while there were unconfirmed reports that such practices occurred, no such cases were documented either by NGOs or the Ministry of Labor.

The government has not repealed a 1960 law that allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. However, there were no reports of the law being used or enforced.

d. Prohibition of Child Labor and Minimum Age for Employment

Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem. The minimum age for employment or internships was 16 years; however, this law generally was not enforced, particularly in rural areas and in the informal sector. Children worked with their families on farms or in small businesses in the informal sector without government monitoring.

Among trafficked children, the most common forms of child labor were in markets or in the fishing industry where children were subject to harsh conditions, long hours, and little or no pay. Approximately 23 percent of trafficked children were forced into prostitution. There were no official statistics on general child labor.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were effective. As in previous years, limited resources prevented the ministry from carrying out regular child labor inspection trips, although at least three labor inspections occurred during the year.

International aid groups reported little change during the year in child labor conditions; the problem existed, but had neither worsened nor improved.

e. Acceptable Conditions of Work

The national minimum wage, which was 54,000 CFA (\$110) per month in the formal sector, did not provide a decent standard of living for a worker and family. Wage floors established in the 1980s for various sectors have remained largely unchanged and were not considered relevant, as wages in the formal sector are paid above the minimum levels, although often not by much. There was no official minimum wage for the agricultural and other informal sectors. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. The bulk of back salaries for government and parastatal workers dating to the late 1990s civil conflict period remained unpaid.

The law provides for a standard workweek of seven hours per day, six days a week with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee. These standards were generally observed, and workers were usually paid in cash for overtime work beyond the standard 42-hour workweek.

Although health and safety regulations require biannual visits by inspectors from the Ministry of Labor, such visits occurred much less frequently, and enforcement of findings

was uneven. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment. There were no exceptions for foreign or migrant workers.
